INDIAN AFFAIRS ON THE GRAND RIVER.

From the Daily Spectator.

Caledonia, July 26th, 1852.

To Sir Allan Napier MacNab.

Sir,—The reply of the Chief Superintendent of Indian Affairs, having reference to a memorial for enquiry into the matter connected with the settlers on the Grand River lands, having been laid before the memorialists and the public, through the medium of the Hamilton *Daily Spectator*, I beg to furnish you, through the same source, with a review of that reply, for the information of His Excellency the Governor General, and all others interested in the subject.

I have the honor to be, Sir,
Your very obedient servant,
JAMES LITTLE.

Sir:—Some three thousand persons of all classes and political shades, headed by yourself, respectfully addressed His Excellency in Council, complaining of the course pursued by the Indian Department against certain Settlers in the Townships of Tuscarora and Oneida, and praying that proceedings might be stayed, and an impartial enquiry made into the whole question.

I see, by the *Daily Spectator* of the 17th instant, that you have received what purports to be an answer to that Memorial from the Chief Superintendant of Indian Affairs. It was, Sir, supposed that a memorial so numerously signed, and as His Excellency admits, by many of high character and respectability, would meet with a different fate from the numerous memorials and remonstances before addressed to the Government by the humble Settlers themselves, and others interested to see justice done them in the matter; but I regret to find that the same invariable course has been pursued in this as in all other instances. Memorial after memorial—remonstance after remonstance—petition after petition, is addressed to the Government against the unjust and oppressive proceedings of the Indian Department, and the Government hands them over, one after another, to be dealt with as seemeth good by the very party complained against. Under irresponsible Government, I say emphatically it was not so, and if this is the system of Government called responsible, which I and others so earnestly and successfully contended for, then I say it fails to carry out my expectations.

The reply of His Excellency, through the Chief Superintendent, containing no new matter or arguments that his Excellency's Indian advisers have not time and again favored the public with, over fictitious names, and which have as often been refuted, denied, and their proof challenged. It might appear a work of supereiogation again to enter on the exposition of the fallacies and sophistries of what has so often before been exposed; but the present document being *the case* of the Indian Department submitted to the public by its highest functionary. I am constrained to give it a respectful consideration, and now proceed to the task.

The Memorialists are informed in the commencement, that under ordinary circumstances, it might be sufficient to state in reply, that the measures complained of were taken under Order in Council, or Acts of the Legislature.

The measures complained of are, that respectable inhabitants are imprisoned in the common jail with felons, for no crime; their wives and children are turned out of doors in the depth of winter, and their stock of provisions and furniture cast out on the road side. And this, Sir, we are now informed, is done by authority of Orders in Council, or of Acts of the Legislature. Is it true, Sir, that the Legislature has granted power to the Executive to pass Orders in Council to clothe the Indian Department with authority to deprive people of their liberty and property. If this is the case, it is certain the community is utterly ignorant of it, as such a law has never found its way to the Statute Book; but under whatever form it is embodied, it is of too dangerous a nature to be allowed to remain in force, and the public welfare will be consulted by the earliest action of the Legislature in its repeal.

In the same paragraph, His Lordship is made to say,—"That the parties in whose behalf these representations are submitted, have for a long period openly set the laws and the authorities at defiance." These unfounded charges, Sir, have again and again been made by His Excellency's Indian advisers, who have been as repeatedly challenged to the proof; they are now publicly promulgated by the highest functionary in the land, and the calumniated parties are deprived of the possibility of establishing their want of foundation, by His Excellency's withholding from them an impartial enquiry into the charges. This may indeed be in accordance with the uniform management of the Indian Department; but it will fail to impress the community with its justice, or as tending to good Government.

It will, Sir, be within your recollection, that the late Attorney General, Mr. Baldwin, who was then one of His Excellency's Executive Councillors, offered by "Royal Proclamation," large rewards for the apprehension of a number of the settlers, who, it is stated, had set the laws at defiance, and openly resisted the Sheriff and his officers. Now, Sir, every officer of the Indian Department knows that so soon as the proclamation was known to the parties whose names it contained, they immediately delivered themselves up to the Sheriff, whom, it was stated, they had outraged, and that that officer refused to receive them—that on his subsequently receiving instructions directing him to receive them into custody, he had only to intimate the same to the parties, and without a moment's hesitation they again voluntarily placed themselves under his charge—that the Grand jury, with one exception, threw out all the bills: yet the Indian Department reiterates the slander of the Proclamation, and again publicly brands these individuals and the other settlers with outraging the laws and authorities. But I am reminded that one conviction was obtained out of the whole number outlawed—this I admit, but I have reason to know that instead of branding the whole community with systematic and long continued criminalities, it would be more to the credit of the Department if they maintained perfect silence on this isolated case.—A man by the name of Cavanah, who is one of the most harmless and inoffensive in the community, but whom the Special Commissioner characterizes in a letter to Wm. L. McKenzie, Esq., as the "Great Ringleader," whom he was determined to make an example of, while, as he states, he exerted his influence to save *Cheshire* and the others, named in the Proclamation, from punishment—just the very last thing in the world he would have done. Cavanah was convicted, and what was his offence? Why, Sir, it was that he had, ignorant of the consequences, in the way of an incarceration obeyed the directions of the authorities, who told him to go into his house who would attempt to break it in. He did as the authorities directed, and afterwards rode back with them towards Caledonia. A long period after this event he was prosecuted for this offence, with the other proclaimed parties, and heroicly submitted to a loathsome imprisonment rather than inculpate those who, with feelings honorable to human nature, which it would be well for the peace and welfare of this section, the Indian Department in some degree possessed—realising the outrageous duty they were sent to perform—were fain to have any pretext to relieve them from its execution. His Excellency's Indian advisers are as cognizant of these facts as I am. They knew they could not obtain the conviction of Cheshire, and the other parties who had not

been guilty of the offences charged in the Proclamation, and poor Cavanagh was hunted up for a "scape goat" to get a conviction, to make capital for the Special Commission, when it was supposed his offence was entirely forgotten. As well, Sir, and with as much show of reason, might His Excellency insist, that because he honored you with a shake of the hand at the Mechanic's Festival, that all the other members and guests forcibly took hold of both his hands, and wrung the arms out of their sockets. But, Sir, notwithstanding the course of oppression that has for years been pursued against the settlers, sufficient to drive them to desperation, let a single individual be pointed out who is obnoxious to the charges, and I will guarantee his *soliciting* a trial. The subjects of these disreputable slanders are men as well as you and I; they possess feelings in common with humanity; they have relatives and friends, both here and in the lands they have left, whose good opinions they would not like to forfeit, and whose feelings they would not outrage by the commission of the crimes attributed to them, if the Department offered reparation by the gift of the disputed territory; and yet when they seek establish their innocence, they are not only refused the opportunity, but are again met by criminal accusations.

"Good name, in man, or woman dear, my
Is the immediate jewel of their soul
Who steals my purse, steals trash — 'twas mine
nothing,
'Twas mine, 'tis his, and has been slave to thousands
But he who filches from me my good name,
Robs me of that which not enriches him,
And makes me poor indeed."

It may, Sir, be considered by the Department a high crime and offence against the laws, that these poor people do not at once voluntarily turn themselves adrift upon the world, "denuded" of the means of supplying their children's cry for bread, on the promulgation merely of *ex post facto* arbitrary Acts of Parliament, passed, as I have shown in a former letter, without the knowledge of the Executive Council, and smuggled through the legislature on the morning succeeding the evening of the festivities [illegible] the entertainment of the guests of the City of Toronto, from Buffalo, and just before the house broke up, and when, if it had been counted, in all probability there would not have been a quorum present; but others will view the matter differently: the settlers have all along submitted peaceably to the execution of these laws, notwithstanding their character, and extent of the calamities they bring with them, but it cannot be expected they will *do more*. The present Premier of His Excellency's Cabinet, publicly declared in his place in Parliament, that he had evaded the Usury Laws, and would evade them again, and in all the abuse that has been so liberally bestowed on that gentleman by the Press this

him as a crime, and it cannot therefore reasonably be expected that those whom the Irish Department term "Squatters" should voluntarily anticipate the execution of laws that totally ruin them, any more than that his Excellency's chief adviser should feel it his duty not to evade the laws that stood in the way of his interest. I hope, Sir, this is the last time the public will be advertised of the outrageous conduct of the settlers, unless they are guilty of them.

In the next paragraph we are informed, "that the memorialists, labor under an entire misapprehension of the history of these transactions."

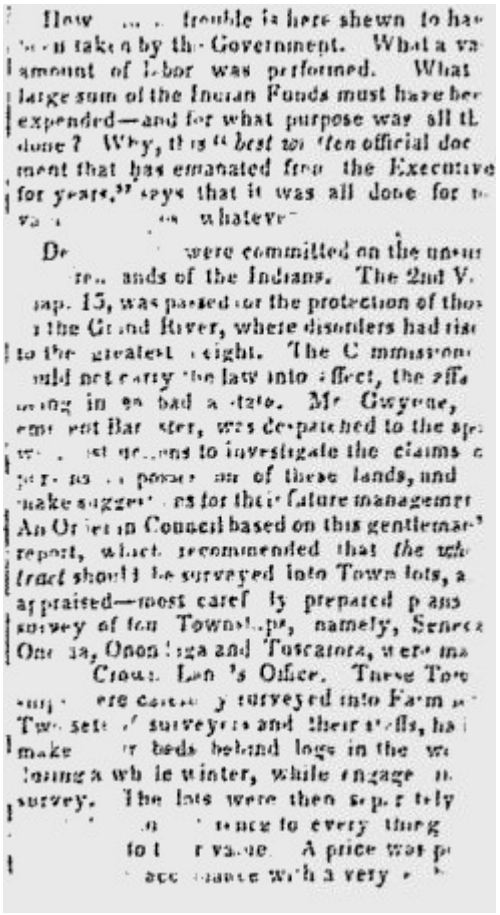
I think, Sir, before I have finished this review, it will be shewn this is not the case, but that His Lordship has been imposed upon, on these furnishing the information, on which the reply is founded. They commenced in utter ignorance of the question, with the most high handed measures, prosecuted, fined and imprisoned under an Act of Parliament that applied to the wild unsurrendered domain of the Indians, and not to lands that had been ceded for sale, and surveyed, inspected and appraised for this purpose, and even now, when they have obtained no less than two *ex post facto* Acts of Parliament sort of bills of indemnity for the past, and to enable them legally to continue prosecutions for the future, they yet are put to their extremest shifts, and to their wits end, to form a colorable excuse for their proceedings, as the reply of the Chief Superintendent, clearly and unmistakably manifests.

The Chief Superintendent in the next and succeeding paragraph labors hard to impress it upon the memorialists, that the Government and Legislature of Canada, have always been honorably distinguished, for their humane and liberal policy towards the Indians &c. This is enforced at such length, in the document under consideration, that one would be inclined to infer it was a major part, of the complaint of the memorialists, while the memorial is perfectly silent on the subject. The information is evidently volunteered, for the purpose of creating sympathetic capital with the public, for the Indians. But I can assure the Department, the Indians are, and have for years back, been exceedingly against being "killed with kindness." They would be altogether better satisfied, with less of this expensive sympathy, which *they* can neither eat, drink or wear, and more of the interest on the sale of their large estate, to keep them from starvation. A sympathy that swallows up all their funds, except the pittance of thirty-five shillings a man, per year, they have more than once intimated to the Government, they would be glad to dispense with—feeling exceedingly dissatisfied with the enormous waste of their funds, in keeping up a large official Staff of Commissioners, Constables, paid witnesses and subsidized Chiefs, together with interminable prosecutions, and the ill feeling those engender between them and the white Settlers, they recently submitted a proposal to the Special Commissioner, either to pay the Settlers the value of their improvements at once, or *lease the lands to those in occupation*, and distribute the proceeds among the Indians. It would be supposed, Sir, that in view of the fact, that the Government "regretted the Indians would not be satisfied with a smaller reserve,"

this approximation to the wishes of the Government, in the latter alternative, would have been gladly accepted, however they might not have made any such propositions," "and tore the document in pieces" But is the *sympathy* of the Government for the Indians, no matter how sincere it may be and its "*feeling itself constrained to yield to their ascertained wishes*" *against its own convictions of the folly of doing so*, a good argument for depriving others of their rights.

The reply now goes on with what purports to be a history of the transactions touching these lands, which is chiefly made up of information afforded the Department from documents in my letter of the 21st April last; but the inferences drawn from these documents, for the purpose of bringing these lands under the provisions of the 2nd Vic. c. 15. by the efforts made to leave the impression, that their general surrender had never been obtained by the Government, are so puerile and absurd, that no one not wilfully blind could possibly escape seeing the total want of grounds the Department had for argument and the extraordinary shifts it was put to, to screen the proceeding of the Commissioner, its prosecutions, under an obsolete Statute that did not apply to the lands in question.

It remains only to say. In order that the merits of these transactions may be clearly understood, I have to state, in the first place, that the attention of Government having been repeatedly called to the number and depredations of the intruders upon Indian lands, the 2nd Vic. c. 15, was enacted for their protection from trespass and injury. Although its provisions embrace the lands of all the Indian tribes, the act was passed with special reference to the Grand River, where the [illegible] to the greatest height. The [illegible] pointed to carry it into effect, represented the state of affairs in that district to be in such a state of confusion, that Mr. Gwynne, barrister at law, was despatched to the spot, with instructions to investigate the claims of persons in possession of lands belonging to the Six Nation Indians, and to make such suggestions with reference to their future management as he might deem advisable. An Order in Council, of the 27th Nov. 1840, which was based upon this gentleman's report, recommended, that the whole tract should be surveyed into Town lots, and appropriated for the double purpose of more advantageously settling the Indians, and facilitating the sale of their surrendered lands. That the surplus lands, Cayuga, Brantford and Dunn, should meanwhile be withheld from market; but that the right of preemption should be accorded to parties having settled thereon prior to 1840."



How ... trouble is here shewn to hav
been taken by the Government. What a va
amount of labor was performed. What
large sum of the Indian Funds must have be
expended—and for what purpose was all th
done? Why, this "*best written* official doc
ment that has emanated from the Executive
for years," says that it was all done for n
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An Order in Council based on this gentleman'
report, which recommended that *the whole
tract* should be surveyed into Town lots, a
appraised—most carefully prepared plans
survey of ten Townships, namely, Seneca
Onei da, Onondaga and Tuscarora, were ma
Crown Land's Office. These Town
sur... ere carefully surveyed into Farm
Two sets of surveyors and their staffs, ha
make ... r beds behind logs in the wo
losing a whole winter, while engaged in
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... ... ference to every thing
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inspection, and diagrams given with particular remarks on each. A large amount of Indian funds was expended in the prosecution of these labours. And all this was done for what? Why the Chief Superintendant of Indian Affairs replies, for the double purpose of *more advantageously settling* the Indians, and *facilitating the sale* of Lands IN OTHER TOWNSHIPS. And these are "the document so unsophisticated, so unvarnished, and so consecutively put together, which had they been earlier known the name of one of your able City journalists would not have been appended to a petition in behalf of appointing a commission of enquiry," although a lad of five years old would feel ashamed of their downright absurdity.

It is precisely the logic of the Indian Department, established at the advent of the special Commissioner, and acted on ever since—and what are these "unsophisticated and *unvarnished* arguments" given us to prove? Why, that these lands were not surveyed, inspected and valued, for the purpose of sale, in accordance with the terms of the Deed of surrender, of 21st January, 1841, but for the purpose of concentrating the Indians and enabling the Government to dispose of *other property*, and having established those Indian Department logical conclusions, the special Commissioner could then exercise legally under the 2nd Vic. c. 15, its six years judicial functions in turning people out of possession of lands which was so conclusively proved, in fact, never to have been surrendered. What position in society would be assigned you, Sir, if, after giving the public to understand you wished to sell your city property, in lots, and those who first occupied them would be entitled to pre-emption, that in accordance with this understanding, numbers settled themselves on the tract before, during, and after you had surveyed, appraised and mapped them; that after the parties had made extensive and valuable improvements, and that *notwithstanding you could make no use whatever of them, but must leave them to ruin and decay*, you then turned round and informed them that if they did not accept of half their value, you would summarily eject them, without giving them any compensation whatever. You commenced, and carried on for years a series of prosecutions, fined, imprisioned, and ejected the occupants of your lots, and when the other citizens petition you to stay the proceedings, and submit the matter for an impartial enquiry into the facts, you reply that the petitioners labor under an entire misconception of the history of these transactions. That the reason you incurred the expense of survey, valuation and mapping, was for the double purpose of enabling you more satisfactorily *to select a pasture field for your horses, and facilitate the sale of the lands you owned in the city of Toronto.* I think, Sir, in view of such a reply as this, which is precisely the import of that you have received

from the Chief Superintendant, that instead of lauding your arguments to the skies, your friends would feel themselves under the painful necessity of arranging for your accommodation in one of the public institutions of the country.

The Chief Superintendent continues. Further, that in consideration of the injury inflicted on their interests, and of the difficulties occasioned by the dispersion of the Indians over the whole extent of the unsurrendered land, the government should exert its influence to persuade them to settle in a concentrated body in such part of the tract, as they might select for their permanent residence, and to cede the residue for sale. Lastly, it emphatically disclaimed any intention, however remote of inducing the Indians to remove from the Grand River settlement. Negociations were accordingly opened with the Indians, but for various reasons, and, more especially, from their disinclination to adopt the views of the government with reference to the dimensions of the future reserve, *no final decision* was come to until Oct., 1843. On the 4th of that month, a very elaborate order in council was passed, which forms the groundwork on which the subsequent proceedings in reference to the land affairs have been based. While regretting that the Indians would not be satisfied with a smaller reserve, it advises that their request be acceded to, and thus describes the tract to be set apart for their use. "All the lands on the south side of the Grand River, with the exception of a tier of lots on the plank road from Hamilton to Port Dover, a distance of more than 20 miles along the river Also the church lot at Tuscarora, and other detached pieces of lands. A proclamation, founded on this order in council, was issued on the 20th July, 1844, prohibiting trespass on the Tuscarora and Oneida lands."

Again, "persons who had entered on the unsurrendered lands could, therefore, only be regarded as trespassers, and the order in council of the 4th Oct. accordingly declares "that the proposed reservation will involve the necessity of ejecting the intruders, without regard to the means by which they acquired possession." Then follows

that ' formal surrenders having been executed by the Indians of the lands, not included in the reserve ; it now became the duty of Mr. Thorburn, who was appointed in 1844, a special commissioner to adjust disputed claims, with a general supervision of the tract, received instructions from Lord Metcalfe, under date the 5th August, 1845, to give notice that all white persons were to retire from the reserve before the 1st of January next ensuing."

It would, sir, be difficult to find any piece of composition more artfully worded to make a wrong impression, and at the same time to leave a loop hole to creep out at, than the foregoing. No one can read what is said on the subject of the final arrangement," but would, without hesitation, say that the partial surrender mentioned was obtained in Oct. 1843, and yet I challenge them to produce any such surrender of an earlier date than 1847, which is long after Mr. Thorburn's appointment in Sept. 1847. Nor were these useless instruments obtained till after he had illegally prosecuted the parties under the 2nd Vic. c. 15, and if they really exist at all, they must have been clandestinely procured, to set aside, if possible, the general surrender made in Jan. 1841, in order to afford a pretext for perpetuating the judicial authority of the commi-sioners.

But admitting these statements for argument's sake, what do they prove ? Why that although the government and the Indian department knew through their officers, who were well paid for " a general supervision of the tract," that the lands were rapidly being filled up, and extensive improvements being made ; they are as silent as the grave on the subject of intrusions, from the time the commissioners appointed to carry the law into effect, represented the state of affairs to be so unsatisfactory in 1840—until the issuing of Mr. Jarvis' proclamation in 1841 —and besides that, not a single prosecution was instituted against the settlers from the fall of 1840 to the close of 1846, *a period of six years* ; and the Indian department takes credit to itself for this line of conduct disgraceful to its management, even to its own showing.

But, sir, the Chief Superintendent is entirely wrong in the reasons assigned for thus unintentionally accusing his own department and the government of gross derelictions of duty. And it will be my business, before I have done, to relieve the accused parties, in this instance, from the shameful position that gentleman has placed them in, and in doing this, I will not have the exceedingly difficult task to perform of establishing conclusions without first having premises to base them on. Before, however, I attend to this matter, I wish to notice one or two others on which great stress is laid by the Crown Lands Department and its supporters.

It is regarded as criminal that the settlers did not take the same view of the question as the Chief Superintendent's contradictory and exceedingly sophistical document has established, and the proclamation of Mr. Jarvis, of July 1844, is made the basis of its strongest accusations against the settlers for not removing at once, without a word of remonstrance. I now design to show the value which it could reasonably be expected the settlers and others would attach to such documents in the face of the facts of these lands having been surrendered for sale several years before—were surveyed, inspected and appraised for this purpose—the government security of preemption by order in council, and the published assurances of the Indian and crown land departments—and if, when I have given them in full, they will appear valuable for any thing, it assuredly will be to establish the claims of the department to be considered as managed in such a way as to excite the laughter and ridicule of the community. The Chief Superintendent will hereafter not only be able to quote one "final arrangement," but he will have several others, all issued by the same officer, within a few months of each other, to strengthen his '*final* arrangements' position in the next reply he may favor the public with.

PROCLAMATION 1ST.

Indian Office, Kingston,
Nov. 1st, 1843.

SIR,—In regard to those persons who have taken possession of lots of land, and made extensive improvements, the *right of preemption* will be extended to them in all cases, where practicable and in no case will a stranger be permitted to purchase a lot in the possession of another person, but on the express condition of paying the occupants the full value of their improvements thereon. *You will confer a favor by making this generally known among the settlers,* for I have received information from several quarters, that there are individuals along the river who have circulated reports with respect to the sale of these lands, calculated to alarm the people, and, indeed, to induce them to suppose the government, at the instigation of the Indian department, was disposed to deal harshly with them.

(Signed) SAMUEL P. JARVIS.

This is "final" decision No. 1, in direct opposition to the "final" decision of the orders in Council of the preceding month, Oct., 1843, and refutes all that has been said or insinuated by the chief superintendent with reference to PREEMPTIVE RIGHTS.

PROCLAMATION 2nd.

Indian Office, Kingston,
Jan. 22, 1844.

It having been represented to his Excellency the Governor General that a number of persons have intruded themselves upon the lands on the south side of the Grand River, between the townships of Brantford and Dunn, exclusively appropriated to the use of the Six Nation Indians, to the serious injury, and great inconvenience and annoyance of said Indians; such persons are required forthwith to remove from said tract.

And public notice is hereby given, that all persons holding unauthorised possession of any part or parts of the said reserve, whether on the north or south side of the river, after the 1st day of April now next ensuing, will be prosecuted with the utmost rigor of the law.

(Signed) SAMUEL P. JARVIS,
Chief Sup. Indian Affairs.

This is "final" decision No 2, setting aside "final" decision No. 1.

PROCLAMATION 3RD.

INDIAN OFFICE, KINGSTON,
March 28th, 1844.

The inspection and valuation of certain lands, on the North side of the Grand River, in the Gore and Niagara Districts, belonging to the Six Nation Indians, being now completed, in pursuance of an order in Council, dated the 27th November, 1840, the public are hereby notified that the said land, with certain exceptions, are for sale under the following regulations:

"All persons reported as resident settlers upon, and prior to, the 27th November, 1840, will be considered the first applicants, and entitled to the right of pre-emption for six calendar months thereafter, at the rate fixed upon the lands, without paying for the value of improvements." The lands comprised within those tracts designated the Johnson and Martin Settlements, the Ox-Bow Eagle's Nest, will be let on leases for a term of years at an annual rental, &c."

Further notice is hereby given, that the Indian lands on the South side of the Grand River, between the Townships of Brantford and Cayuga with the exception of one Concession on either side of the Plank Road, between the Caledonia bridge and the Southern limits of the Indian lands are set apart for the exclusive occupation of the Six Nation Indians; and all persons are hereby cautioned against trespassing upon, or holding unauthorised possession of the same.

Signed, SAMUEL P. JARVIS,
Chief Sup. of Indian Affairs.

This is "final" decision No. 3, setting aside final decision No. 2, by excepting the Townships of Cayuga, and establishing pre-emption by Orders in Council, denied by the Chief Superintenent as applying to the lands in question.

PROCLAMATION 4th.

INDIAN OFFICE, Kingston,
July 20, 1844.

Reserving all the lands on the south side of the River, with the exception of a tier of lots on the Plank Road, from Hamilton to Port Dover, &c.

This is THE "final" decision mentioned by the Chief Superintendent, and setting aside the final decision No. 3.

PROCLAMATION 5TH.

INDIAN OFFICE, Kingston, 1844.

Reserving all the lands between the Townships of Brantford, to within one tier of lots on the west side of the Plank Road from Hamilton to Port Dover.

This is "final" decision No 5, completely setting aside all preceding final decisions.

Now, Sir, here are no less than five Proclamations, all issued from the Indian Department, within a few months, contradicting each other in every direction, and nearly all, in direct opposition to the Chief Superintendants unsupported statements,—and not one of the whole number has since been acted on by the Government.—And yet, Sir, parties are actually accused by the Department, and others not knowing the question, as criminal, for paying no attention to such a tissue of contradictions, which the Government and Indian Department themselves in no instance regarded.

I hope, Sir, for the credit of the Department, no Proclamation of 1844 will again be intrued on the notice of the public.

I now, Sir give copies of letters from the *special Commissioner* and the Civil Secretary, to show that no "*final arrangement*" was come to up to 3rd April, 1846, "with reference to the dimensions of the future reserve."

In reply to a letter addressed by Nelson Boughner to the *special Commissioner*, making enquiry respecting the sale and purchase of certain lands in Tuscarora, that Officer replies,—

INDIANA, 2nd May, 1845.

SIR,—THE RESERVEQUESTION STILL CONTINUES TO OCCUPY THE ATTENTION OF THE GOVERNMENT,—the FINAL DECISION *of the question will be made known so soon as that takes place.* I would have replied to the letter of March, at an earlier day, *but had nothing positive to make known till the* ULTIMATUM *was made known to me by the Government.*

Signed, DAVID THORBURN.
Special Commissioner.

CIVIL SECRETARY'S OFFICE,
Indian Department,
3rd April, 1846.

SIR:—I am commanded by the Administrator of the Government, to acknowledge the receipt of your petition, dated 13th ult., which has been referred to the special Commisssioner; and I am to inform you that that officer has been directed to report upon the value of the improvements of each settler in Tuscarora, with a view to his being renumerated *in the event of its being found necessary* to remove him from the land he occupies, provided he can establish an equitable claim to compensation.

I have the honor to be, Sir,
Your most obedient Servant,
J. M. HIGGINSON,
Civil Secretary.

Mr. NELSON BOUGNER, Seneca.

Can anything be more conclusive than these documents, to prove that no "final arrangement was made with reference to the dimensions of the future reserve" as late as April, 1846?—and yet the parties in occupation of these lands for ten or eleven years, and owning large and valuable improvements, are turned out of possession on the strength of Mr. Jarvis' quintuple contradictory Proclamations, which the subsequent officers of the Indian Department, and the government themselves deny as true, and consequently, having no force whatever.

With respect, now, to what is said about Lord Metcalfe's giving instructions to Mr. Thorburn, under date 3rd August, 1844, to issue a notice "that all white persons were to retire from the reserve before the first of January next, ensuing." I have reason to believe Lord Metcalfe never gave any such outrageous instructions, involving a large amount of property, and the rights of parties, secured by the whole prior action of the government.

His Lordship distinctly stated, Oct 28, 1845, "that it was not the intention of His Excellency to sanction the removal of the Settlers, without affording to each of them the opportunity of establishing the claims which they may consider

themselves to possess, either to the *privilege of pre-emption of the lands occupied by them*, or to the value of their improvements thereon.' Again, "that the persons who have leases from individuals of the tribes must be let alone, or, at all events, be bought out again." Not the slightest regard has been paid to these directions, but the parties have been proceeded against without any investigation whatever, or "regard to the means by which they acquired possession" If, instead of charging Lord Metcalfe with directing such arbitrary steps to be taken, the Chief Superintendent had said, that an officer of the Indian Department, had assumed the functions of the Executive, in this, and other cases, I could readily believe him In a matter affecting myself, which covered a correspondence of over two years, I was constantly advised, that the Governor General in Council, had done this, and the Governor General in Council, had done that, until the Governor General in Council, at last, came to a decision, adverse to my rights. But on personal application, to his Excellency, on the subject, in presence of witnesses, His Excellency *expressed his surprise, that I had not submitted the matter to him before.* And Mr. Draper, the Attorney General, at the same time, informed me that Mr. Higginson, had taken upon himself, the entire management of the Indian land, and that no *such question as mine had been submitted, for the consideration of the government*, but if I would lay it before them, immediate attention would be given to it. I did so, and that evening was favored with a note from the Hon. Mr. Wm. Morris, requesting me to call next morning, when the whole matter was satisfactorily arranged, in less than an hour. I mention this case to show that when it is stated, elaborate orders in Council were passed by the Government, of Lord Metcalfe, or that this, or that notice, was directed to be given by His Excellency, or Earl Cathcart? It merely means, that the Indian Department, did so and so, and the Government, which knew nothing of what was done by its predecessors, touching the matter, endorsed such orders as the Indian Department chose to furnish them with. And now

when conduct, that has so long, and so justly been complained of, is sought to be enquired into, that Department should not be permitted to shelter itself, under *ex post facto* documents, manufactured by it, which are in direct opposition to the whole action of the two preceding Governments.

(To be concluded in our next.)

{actually August 2, 1852}